

### **REMARKS**

This Application has been carefully reviewed in light of the final Office Action dated October 30, 2008 ("*Office Action*"). In the *Office Action*, Claims 1-39 are pending. The Patent Office rejects Claims 1-13, 15-21, and 23-39; and objects to Claims 14 and 22. Applicants respectfully request reconsideration and favorable action in this case.

### **Procedural History**

This Final Office Action is the *seventh action* on the merits for this application. Applicants respectfully remind the PTO that this Application has been pending for more than five years. Applicants also remind the PTO that the single reference, *Manzardo*, applied in the present *Office Action* has also been applied in the five preceding Office Actions of July 11, 2006; December 26, 2006; May 25, 2007; October 11, 2007; and April 18, 2008. In accordance with M.P.E.P. § 707.02, Applicants request that this Application be considered "special." Applicants request that the Examiner's supervisor personally check on the pendency of this application with a view to finally concluding its prosecution in accordance with M.P.E.P. § 707.02.

### **Allowable Subject Matter**

Applicants note with appreciation the Examiner's indication that Claims 14 and 22 would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. However, as discussed below, Applicants believe that independent Claim 11 (from which Claim 14 depends) and independent Claim 16 (from which Claim 22 depends ) are also allowable. Therefore, Applicants have not rewritten Claims 14 and 22 in independent form.

### **Section 103 Rejections**

The Patent Office rejects Claims 1-2, 4, 6-8, 16-18, 21, 23-24, 26, 28-29, 31-33, 35-37, and 39 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0061319 issued to Manzardo ("*Manzardo*") and U.S. Patent No. 7,085,805 issued to Ruberg et al. ("*Ruberg*"). The Patent Office rejects Claims 3, 5, 25, and 34 under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Manzardo* in view of *Ruberg*,

further in view of U.S. Patent No. 6,853,714 issued to Liljestrand et al. ("*Liljestrand*"). The Patent Office rejects Claims 9-10, 27, 30, and 38 under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Manzardo* in view of *Ruberg*, further in view of U.S. Patent No. 6,785,223 issued to Korpi et al. ("*Korpi*"). The Patent Office rejects Claims 11-13, and 15 under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Manzardo* in view of U.S. Patent No. 7,023,876 issued to Berry et al. ("*Berry*"). The Patent Office rejects Claim 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Manzardo* in view of *Ruberg*, *Berry*, further in view of *Korpi*.

**A. The Claims are Allowable over the cited References**

Because the proposed combinations do not disclose, teach, or suggest the features of Applicants' claims, Applicants respectfully traverse the rejection of the claims and request reconsideration and favorable action.

**1. Claims 1-5, 16-18, 21, 23, 25, and 32- 35**

In the *Office Action*, the Patent Office rejects Claims 1-2, 4, 16-18, 21, 23, 32, 33, and 35 over the *Manzardo-Ruberg* combination and Claims 3, 5, 25, and 34 over the proposed *Manzardo-Ruberg-Liljestrand* combination. It is Applicants' position, however, that the cited references do not disclose the particular combination of features and operations recited in Applicants' claims.

For example, the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest "determining that the interruption in keep alive signals **resulted from failure of the first user endpoint and not as a result of voluntary disconnection,**" as recited in Claim 1. On Page 4 of the Office Action mailed October 11, 2007, the Patent Office acknowledged that the combination of *Manzardo* and *Ruberg* fails to disclose these elements but asserted that U.S. Patent No. 6,609,213 issued to Nguyen et al. ("*Nguyen*") does disclose these elements. However, on Page 3 of the subsequent Office Action mailed April 18, 2008, the Patent Office withdrew its rejection based on *Nguyen*. In the Office Action mailed April 18, 2008, the Patent Office asserted that *Ruberg* discloses these elements, **contradicting the Patent Office's prior acknowledgement that *Ruberg* fails to disclose these elements.**

In the most recent *Office Action*, the Patent Office again asserts that *Ruberg* discloses these elements. Specifically, the Patent Office relies on column 15, lines 21-37, of *Ruberg* for

disclosure of these claim elements. Applicants respectfully disagree and submit that *Ruberg* does not cure the acknowledged deficiencies of *Manzardo*. *Ruberg* discloses that “a heart beat message may be sent in both directions between the peer device managers and in both directions between each device manager and their respective desktop units.” *Ruberg*, col. 15, ll. 18-21. According to *Ruberg*, “[a]fter a predetermined number of heartbeat time periods have expired without hearing anything, functionality of the remote unit may be assumed to be non-functional and the connections between the local and the remote units may be closed.” *Ruberg*, col. 15, ll. 25-29 (emphasis added). Thus, *Ruberg* discloses that the connections are closed regardless of whether the interruption is a result of failure or voluntary disconnection. There is no determination as to the reason of the failure in heartbeats.

Additionally, the Patent Office again cites *Ruberg*, column 15, line 32-37, which discloses that “[i]n one embodiment where a desktop unit fails (e.g., powered off, disconnected), the device data may be removed from the local device list and all peers and all interested device services may be notified that the devices for that desktop unit are no longer available.” *Office Action* at 2. Again, this section of *Ruberg* does not distinguish between different types of disconnection. The cited section of *Ruberg* only indicates that, when a desktop unit is powered off or disconnected, for whatever reason, the device is removed from a device list. Thus, any lack of a heartbeat is deemed a failure and the failover procedure is initiated. There is no disclosure in *Ruberg* of “determining that the interruption in keep alive signals resulted from failure of the first user endpoint and not as a result of voluntary disconnection,” as recited in Claim 1.

For at least these reasons,<sup>1</sup> Applicants respectfully request reconsideration and allowance of Claim 1, together with Claims 2-5 that depend from Claim 1. For reasons

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<sup>1</sup> Additionally, it continues to be Applicants’ position that the proposed combination does not disclose, teach, or suggest Applicants’ steps of “maintaining a connection with the second user endpoint after the interruption” and “reestablishing the communication session between the first user endpoint and the second user endpoint if the keep alive signals resume within a predetermined time period,” as recited in Claim 1. In a Response to Office Action submitted on March 9, 2007, Applicants identified, as examples, several claim elements that were not disclosed in the proposed *Manzardo-Ruberg* combination. Although Applicants believe that those previous arguments continue to have merit, to avoid burdening the record, Applicants do not repeat those arguments here. Rather, Applicants refer the Patent Office to pages 11-14 of the Response to Office Action submitted on March 9, 2007, for a detailed discussion of the failure of the proposed *Manzardo-Ruberg* combination to disclose, teach, or suggest the recited features and operations. Applicants reserve the right to raise this point on appeal.

analogous to those discussed above with regard to Claim 1, Applicants submit that the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest the features of independent Claims 16 and 32. For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 16 and 32, together with Claims 17-18, 21, 23, and 25 that depend on Claim 16 and Claims 32-35 that depend on Claim 32.

## 2. Claim 7

In the most recent *Office Action*, the Patent Office again rejects Claim 7 over the *Manzardo-Ruberg* combination. It is Applicants' position, however, that the proposed *Manzardo-Ruberg* combination does not disclose the particular combination of features and operations recited in Applicants' claim. For example, it continues to be Applicants' position that the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest at least the following combination of claim elements recited in Claim 7:

- determining the user associated with the first user endpoint using the directory,
- determining that the third user endpoint is also associated with the user,
- selecting the third user endpoint for the communication session, and
- transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint.

In the most recent *Office Action*, the Patent Office once again relies upon page 8, paragraph 82 of *Manzardo* for disclosure of Applicants' recited claim language: "determining the user associated with the first user endpoint using the directory" and "determining that the third user endpoint is also associated with the user." *Office Action* at 3. However, that portion of *Manzardo* merely discloses that the main server "may include or store information regarding connections, gateways, interfaces, other client connection devices, calls, addresses, user devices, configuration details, content, requests, connections, communications, etc." *Manzardo* at 8, para. 82. There is no disclosure in *Manzardo* that such "information" is used to perform steps analogous to Applicants' claimed steps recited above.

Additionally, the Patent Office once again relies upon page 5, paragraph 53, of *Manzardo* for disclosure of Applicants' recited claim language: "selecting the third user endpoint for the communication session" and "transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint." *Office Action* at 3-4. However, *Manzardo* merely discloses that the stand-by server 104 may initiate a switch over

from the main server 102 to the stand-by server 104 if the stand-by server 104 fails to receive one or more of the keep alive signals. *Manzardo* at 5, paras. 49, 53. Thus, *Manzardo* relates to the switch-over between two servers that support a call between two endpoints. Since *Manzardo* does not relate to the failure of endpoints but rather to the failure of a server, there would be no need (and *Manzardo* discloses no such need) for performing steps of “determining the user associated with the first user endpoint using the directory,” “determining that the third user endpoint is also associated with the user,” “selecting the third user endpoint for the communication session,” and “transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint,” as recited in Applicants’ Claim 7. The claimed operations are simply absent from the disclosure of *Manzardo*.

Since neither *Manzardo* nor *Ruberg*<sup>2</sup> relate to the failure of endpoints but instead each relate to the failure of a server, even the combination of these references cannot be said to disclose Applicants’ above recited operations. Again, Applicants respectfully submit that such a piecemeal rejection of Applicants’ claim fails to give credence to the overall combination of features recited in the Claim 7. The M.P.E.P. provides that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Applicants’ claim does not merely recite transferring a communication session in the abstract. Additionally, Applicants’ claim does not recite “a user endpoint” in the abstract. Rather, upon detecting a failure of an endpoint, Applicants’ Claim 7 clearly recites “**determining that the third user endpoint is also associated with the user,**” “**selecting the third user endpoint for the communication session,**” and “**transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint.**” This combination of elements is clearly absent from the *Manzardo-Ruberg* combination.

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<sup>2</sup> It continues to be Applicants’ position that *Ruberg* also fails to disclose, teach, or suggest Applicants’ steps of “determining the user associated with the first user endpoint using the directory,” “determining that the third user endpoint is also associated with the user,” “selecting the third user endpoint for the communication session,” and “transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint,” as recited in Applicants’ Claim 7. Although Applicants believe that previous arguments continue to have merit, to avoid burdening the record, Applicants do not repeat those arguments here. Rather, Applicants refer the Patent Office to pages 14-15 of the Response to Office Action submitted on July 17, 2008, for a detailed discussion of the failure of *Ruberg* to disclose, teach, or suggest the recited features and operations. Applicants reserve the right to raise these points again on appeal.

For at least these reasons, Applicants request reconsideration and allowance of Claim 7.

**3. Claims 6, 8-10, 26-31, and 36-39**

In the *Office Action*, the Patent Office rejects Claims 6, 8, 26, 28-29, 31, 37, and 39 over the proposed *Manzardo-Ruberg* combination. The Patent Office rejects Claims 9-10, 27, 30, and 38 over the proposed *Manzardo-Ruberg-Korpi* combination. It continues to be Applicants' position, however, that the cited references do not disclose the particular combination of features and operations recited in Applicants' claims.

For example, the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest "identifying a third user endpoint as being associated with the first user" and "transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint," as recited in Claim 6. The Patent Office once again cites reference numerals 112, 114, and 116 of Figure 1 and identifies paragraph 53 as disclosing the recited claim elements. *Office Action* at 9.

Applicants respectfully disagree that the cited portions of *Manzardo* disclose Applicants' "identifying" and "transferring" steps. Although *Manzardo* does indeed state that "during a step 212, the stand-by server 104 established connections with the gateway 120 and/or the interface 117" (*Manzardo* at 5, para. 54), the disclosed step only indicates that connections are established. When read in the context of the entire process disclosed in *Manzardo*, it becomes clear that the establishing of a connection with gateway 120 and/or the interface 117 at step 212 is merely the re-establishment of a previous connection with that particular gateway 120 and/or interface 117.

Specifically, *Manzardo* discloses that at a step 202, "gateway 120 and/or the interface 117 or some other client connection device may establish one or more connections with the main server 102 when supporting one or more call(s) . . . ." *Manzardo* at 4-5, para. 44. The purpose of *Manzardo*, however, is to initiate a switch over from the main server 102 to the stand-by server 104 if the stand-by server 104 fails to receive one or more of the keep alive signals. *Manzardo* at 5, para. 49. Accordingly, *Manzardo* discloses:

During a step 206, the main server 102 stops initiating or sending keep alive signals . . . During a step 208, the stand-by server 104 detects a lack or loss of one or more keep alive signals initiated by the main server 102 . . . During a step 210, the gateway 120 and/or the interface 117 drop their connection(s) with the main server 102. Presumably, whatever problem happened with the main server 102 to stop it from sending keep alive signals to the stand-by server 104 will also result

in a loss of the keep alive signal, if any, or other control, data or other signals being sent from the main server 102 to the gateway 120 and/or the interface . . .

During a step 212, the stand-by server 104 establishes connections with the gateway 120 and/or the interface 117.

*Manzardo* at 5, paras. 50-53. Thus, upon a failure of the main server, *Manzardo* discloses that any connections between that main server and the gateway 120 and/or interface 117 are dropped. Those same connections are then reestablished between the stand-by server and the same gateway 120 and/or interface 117. The reestablishment of connections with the gateway 120 and/or the interface 117 are not analogous to “identifying a third user endpoint as being associated with the first user” and “**transferring** the communication session with the second user endpoint **from the first user endpoint to a third user endpoint**” as recited in Claim 6.

Furthermore, Applicants again comment on the Patent Office’s identification of reference numerals 112, 114, and 116 in Figure 1 of *Manzardo*. While the identified reference numerals do indeed relate to a “one or more telephones 112, 114 or other client devices 116 connected to the network 206 via an interface 117” (*Manzardo*, Figure 1, p.3, para. 29), the disclosed components do not alter the operations disclosed in *Manzardo*. Specifically, and as described in detail above, *Manzardo* discloses that upon a failure of the main server any connections between that main server and the gateway 120 and/or interface 117 are dropped. Those same connections are then reestablished between the stand-by server and the same gateway 120 and/or interface 117. Thus, *Manzardo* discloses switching from a failed server to a stand-by server. Although such servers may support “one or more telephones 112, 114 or other client devices 116,” the switching of servers is certainly not analogous to “identifying a third user endpoint as being associated with the first user” and “**transferring** the communication session with the second user endpoint **from the first user endpoint to a third user endpoint**” as recited in Claim 6.

Since neither *Manzardo* nor *Ruberg*<sup>3</sup> relate to the failure of endpoints but instead each relate to the failure of servers, the combination of these references cannot be said to disclose “identifying a third user endpoint as being associated with the first user” and “transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint,” as recited in Claim 6. Again, Applicants respectfully submit that such a piecemeal rejection of Applicants’ claim fails to give credence to the overall combination of features recited in the Claim 6. The M.P.E.P. provides that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Applicants’ claim does not merely recite transferring a communication session in the abstract. Additionally, Applicants’ claim does not recite “a user endpoint” in the abstract. Rather, upon detecting a **failure of an endpoint**, Applicants’ Claim 6 clearly recites “**identifying a third user endpoint as being associated with the first user**” and “transferring the communication session with the second user endpoint **from the first user endpoint to a third user endpoint**.” This combination of elements is clearly absent from the *Manzardo-Ruberg* combination.

In response to arguments similar to those listed above, the Patent Office merely indicated the following: “The examiner refers to the same response with respect to claim 7 above.” Applicants do not know how this was responsive to the prior argument. “Once the applicant has presented rebuttal evidence . . . , [t]he Office action should clearly communicate the Office’s findings and conclusions, articulating how the conclusions are supported by the findings.” M.P.E.P. § 2141. The Patent Office has again failed to explain how *Manzardo*’s sever-switching system is related to “identifying a third user endpoint as being associated with the first user” and “transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint” as recited in Claim 6. Rather, the Patent Office relies on a piecemeal rejection using the server-switching system of *Manzardo*, the client

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<sup>3</sup> Applicants again contend that *Ruberg* only “relates to methods and apparatus for data distribution among servers in a grouped server system where device operations remain uninterrupted when a server fails.” *Ruberg*, col. 2, ll. 18-20. In a response to a similar argument made by the Applicants, the Patent Office merely indicated the following: “The examiner refers to the same response with respect to claim 1 above.” Applicants do not know how this was responsive to the Applicants’ previous arguments and do not understand how *Ruberg* relates to the failure of a desktop unit as it pertains to the proposed *Manzardo-Ruberg* combination or the Applicants’ claimed features. Although Applicants believe that previous arguments continue to have merit, to avoid burdening the record, Applicants do not repeat those arguments here. Rather, Applicants reserve the right to raise this point on appeal.



devices of *Manzardo* that have no operational relationship with the server-switching system, and additional unrelated elements of *Ruberg*. Applicants maintain that the proposed *Manzardo-Ruberg* combination fails to give credence to the overall combination of features recited in the Claim 7.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 6, together with Claim 8-10 that depend on Claim 6.

Independent Claims 26 and 39 include certain features and operations that are analogous to the features and operations recited in Claim 1. For example, Claim 26 recites “a processor operable to . . . identify a third user endpoint as being associated with the first user; and . . . transfer the communication session with the second user endpoint to the third user endpoint.” As another example, Claim 36 recites “identifying a third user endpoint as being associated with the first user” and “transferring the communication session with the second user endpoint from the first user endpoint to the third user endpoint.” As still another example, Claim 39 recites “means for identifying a third user endpoint as being associated with the first user” and “means for transferring the communication session with the second user endpoint to a third user endpoint.” Accordingly, for reasons analogous to those discussed above with regard to Claim 6, Applicants submit that the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest the features of independent Claims 26, 36, and 39.

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 26, 36, and 39, together with the Claims 27-31 that depend from Claim 26 and Claims 37-38 that depend from Claims 36.

#### **4. Claims 11-13 and 15**

In the *Office Action*, the Patent Office continues to reject Claims 11-13 and 15 over the proposed *Manzardo-Berry* combination. It continues to be Applicants’ position, however, that the proposed *Manzardo-Berry* combination does not disclose the particular combination of features and operations recited in Applicants’ claims.

For example, the proposed *Manzardo-Berry* combination does not disclose, teach, or suggest the steps of “receiving from a user of the first user endpoint a user-generated message to reestablish the communication session” and “in response to the user-generated message, reestablishing the communication session between the second user endpoint and the user of the first user endpoint,” as recited in Applicants’ Claim 11. The Patent Office acknowledges that

the recited features and operations are absent from *Manzardo* and continues to rely upon *Berry*. *Office Action* at 23. Specifically, the Patent Office continues to rely on column 13, lines 53-54 of *Berry* as disclosing Applicants' step of "receiving" and on column 9, lines 35-39 of *Berry* as disclosing Applicants' step of "reestablishing." *Office Action* at 23.

The prosecution history reveals that the Patent Office has repeatedly failed to respond to Applicants' arguments despite numerous requests:

- This ground for rejection was first raised by the Patent Office on page 16 of the Office Action mailed July 11, 2006. Applicants responded with rebuttal evidence on October 5, 2006.
- On page 19 of the Office Action mailed December 26, 2006, the Patent Office ignored Applicants' arguments, claiming that they "are moot in view of the new ground(s) of rejection." However, the December 26, 2006, Office Action did not raise new grounds for rejection; rather, page 16 of the Office Action raised identical grounds of rejection. Applicants raised this point in a Response filed March 9, 2007, and expanded their arguments.
- However, on page 16 of the Office Action mailed May 25, 2007, the Patent Office again raised identical grounds of rejection (with identical citations) without responding to Applicants' arguments. Instead, the Patent Office on page 20-21 suggested that *Berry* might "inherently" disclose the claimed limitations at column 5, lines 51-55. In a response filed July 31, 2007, Applicants correctly pointed out that this inherency rejection was improper and reasserted arguments that *Berry* fails to disclose the claimed limitations.
- However, the Patent Office once again ignored the Applicants' arguments and requests for further consideration. On October 11, 2007, the Patent Office issued a rejection that repeated the May 25, 2007, rejection word-for-word. On January 11, 2008, Applicants responded again with requests for consideration of Applicants' arguments.
- On page 20 of the Office Action mailed April 18, 2008, the Patent Office acknowledged that the inherency rejection was improper. However, the Patent Office did so merely by deleting the inherency rejection from the wording repeated in the May 25, 2007, and the October 11, 2007, Office Actions. The Office Action again repeats the same rejection and brief citations from the Office

Actions mailed July 11, 2006, the December 26, 2006, May 25, 2007, and October 11, 2007.

In the most recent *Office Action*, the Patent Office again repeats the same rejection and citations from the Office Actions mailed July 11, 2006, December 26, 2006, May 25, 2007, October 11, 2007, and April 18, 2008. Specifically, the Patent Office continues to rely on column 13, lines 53-54 of *Berry* as disclosing Applicants' step of "receiving" and on column 9, lines 35-39 of *Berry* as disclosing Applicants' step of "reestablishing." However, for the first time, the Patent Office attempts to provide a new explanation for its rejection. According to the Patent Office:

The applicant argues on page 20, first paragraph that *Berry* does not disclose, teach, or suggest "in response to the user-generated message, reestablishing the communication session between the second endpoint and the user of the first endpoint," as recited in claim 11. The applicant admitted that *Berry* discloses that the devices may include workstations or other user-devices, and argues that there is no disclosure that the user-devices are used to send user-generated messages during the negotiation of the exchange rate. The examiner disagrees. *Manzardo* teaches at page 3, paragraph [0031] in the cited passage: "... some other device (notebook computer, workstation or other user-device means), personnel or software (e.g., network manager, IT personnel) may send or provide configuration information . . . ."

*Office Action* at 4-5.

**However, the above explanation fails for several reasons.** First, the Patent Office only reconsidered arguments directed toward the step of "reestablishing" and ignored the step of "receiving." Second, the Patent Office relies on an "admission" of the Applicant that the Applicant never made. Third, **the Patent Office's explanation contradicts its rejection.** On page 23, the Office Action asserted that the step of "reestablishing" was disclosed by column 9, lines 35-39, of *Berry*. Yet, the Patent Office supports this rejection not by citing *Berry*, but by citing an unrelated excerpt from *Manzardo*. The most recent *Office Action* represents the sixth time that the Patent Office has asserted that *Berry* for disclosure of a step of "reestablishing," and yet the Patent Office's explanation cites *Manzardo* instead, failing to identify where the claimed limitations are disclosed in *Berry*. Furthermore, **this is the sixth time that the Patent Office has acknowledged that the recited features and operations are absent from *Manzardo*.** *Office Action* at 23. **Yet, on page 4, the Patent Office now attempts to cite *Manzardo* as disclosing the claimed limitations.**

Additionally, the Patent Office's citation of *Manzardo*, page 3, paragraph 31, is not relevant to Applicants' step of "receiving" or step of "reestablishing." The sentence cited by the Patent Office reads in full: "In some embodiments, the main server 102 or some other device, personnel or software (e.g., network manager, IT personnel) may send or provide configuration information to the stand-by server 104." *Manzardo* at 3, para. 31. Paragraph 31 defines Configuration Information as follows: "Configuration information may be or include information regarding devices in the system 100, connections or routes between the devices in the system 100, IP addresses for devices, call or line priority information, etc." *Manzardo* at 3, para. 31. This configuration information is not "a user-generated message," and the cited passage from *Manzardo* makes no mention of using a user-generated message to "reestablish the communication session." Once again, Applicants remind the examiner that does not claim an "endpoint" in the abstract or any generic "message." Instead, Claim 11 recites the steps of "receiving from a user of the first user endpoint a user-generated message to reestablish the communication session" and "in response to the user-generated message, reestablishing the communication session between the second user endpoint and the user of the first user endpoint."

In addition, as previously shown by Applicants, the portions of *Berry* cited by the Patent Office in the *Office Action* at page 23 fail to rectify the failures of *Manzardo*. Specifically, it is the state machine 204 of the *Berry* system - and not an user endpoint - that initiates the messages. *Berry* discloses that "the **state machine 401** provides a set response mode message to the protocol layer 103 that causes the protocol layers 102 and 103 to begin the initialization process and re-negotiate the exchange rate and re-establish the connection." *Berry*, col. 9, ll. 35-39 (emphasis added). *Berry* further discloses that "**state machine 401** provides a synchronization request message to re-establish the connection and/or renegotiate the exchange rate." *Berry*, col. 13, ll. 51-53 (emphasis added). Thus, the relied upon portions of *Berry* merely disclose that a **state machine 401** initiates various messages during the negotiation of an exchange rate and the (re)establishment of a connection. *Berry*, Abstract. Because *Berry* discloses that the state machine initiates the messages, Applicants maintain that there is no disclosure in the cited portions of *Berry* of "a user-generated message," as recited in Claim 11. Since *Berry* does not disclose a user-generated message, *Berry* cannot possibly disclose, teach, or suggest "receiving **from a user** of the first user endpoint a **user-generated** message to reestablish the communication session," as recited in Claim 11. For analogous reasons, *Berry*

also does not disclose, teach, or suggest “in response to the user-generated message, reestablishing the communication session between the second endpoint and the user of the first endpoint,” as also recited in Claim 11.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 11, together with Claims 12-13 and 15 that depend from Claim 11.

**B. The Proposed Combinations are Improper**

In a previously submitted Response to Office Action submitted on July 17, 2007, Applicants argued that the Patent Office had not provided the requisite teaching, suggestion, or motivation, either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of Applicants’ invention to modify or combine *Manzardo* with *Ruberg* and/or *Berry*. Although Applicants believe that those previous arguments continue to have merit, to avoid burdening the record, Applicants do not repeat those arguments here. Rather, Applicants refer the Patent Office to pages 18-25 of the Response to Office Action submitted on July 17, 2007, for a detailed discussion of the impropriety of the proposed combinations of references. Applicants reserve the right to again argue these points and any related points before the Board of Patent Appeals should an Appeal become appropriate.

**Failure to Establish Prima Facie Rejection**

Applicants submit that the above indicated errors in failing to establish a *prima facie* case are clear errors of law as defined by the Official Gazette Notice of July 12, 2005, establishing the procedure for the Pre-Appeal Brief Request for Review, and if maintained, would clearly be overturned by a Pre-Appeal Panel.

**No Waiver**

All of Applicant's arguments are without prejudice or disclaimer. Applicant reserves the right to discuss the distinctions between the applied art and the claims in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Patent Office, Applicant does not acquiesce to the Patent Office's additional statements. The example distinctions discussed by Applicant are sufficient to overcome the rejections.

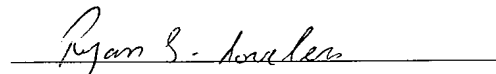
**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all the pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

Although no fees are believed due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,  
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